

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of)	
)	Docket No. CWA-07-2001-0097
AERO METAL FINISHING, INC.)	
2150 N. Lark Industrial Drive)	
Fenton, Missouri 63026)	FINDINGS OF VIOLATION
Respondent)	AND ORDER FOR COMPLIANCE
)	
Proceeding under Section 309(a)(3))	
of the Clean Water Act,)	
33 U.S.C. § 1319(a)(3))	
)	

I. STATUTORY AUTHORITY

1. The FINDINGS OF VIOLATION are made and ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Sections 308(a) and 309(a)(3) of the Clean Water Act ("CWA or the "Act"), 33 U.S.C. §§ 1318(a) and 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA Region VII.

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, inter alia, Sections 307 and 402 of the Act, 33 U.S.C. §§ 1317 and 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that section. Section 307 provides for the promulgation of regulations establishing pretreatment standards for introduction of pollutants into publicly owned treatment works ("POTW").

3. Pursuant to Section 307(b) of the Act, 33 U.S.C. § 1317(b), EPA promulgated regulations at 40 C.F.R. Part 403 establishing the General Pretreatment Regulations and at 40 C.F.R. Parts 405 through 471 establishing the Point Source Categorical Standards. These regulations and standards are designed to regulate the introduction of pollutants into publicly owned treatment works which are determined not to be amenable to treatment by such treatment works or which could interfere with the operation of such treatment works.

4. The Missouri Department of Natural Resources (“MDNR”) is the state agency with the authority to administer the federal NPDES program pursuant to Section 402 of the Act, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding dated October 30, 1974. MDNR is also the state agency with the authority to administer the Pretreatment Program pursuant to 33 U.S.C. § 1342 of the Act, implementing regulations and a Memorandum of Understanding dated June 3, 1981. As such, MDNR is the Approval Authority as defined by 40 C.F.R. Part 403.3(c). EPA maintains concurrent enforcement authority with delegated state NPDES authorities, including Missouri, for violations of NPDES permits.

II. Background

5. The Northeast Public Sewer District, (hereafter “the District”) owns and operates a Publicly Owned Treatment Works (“POTW”) in Jefferson County, Missouri. The wastewater treatment plant is a “point source” that “discharges pollutants” to Saline Creek, which is considered “navigable waters of the United States,” respectively as defined within Section 502 of the Act, 33 U.S.C. § 1362.

6. On or about April 1, 1996, NPDES Permit No. MO-0054151 was issued to the District by the MDNR pursuant to Section 402 of the Act, 33 U.S.C. § 1342, which contains limitations for discharges of effluent from the POTW to waters of the United States. Although the District’s permit expired on March 31, 2001 it remains in effect until a replacement is reissued by MDNR.

7. AERO Metal Finishing, Inc. (Respondent), is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and owns and operates a manufacturing operation at 2150 N. Lark Industrial Drive, Fenton, Missouri 63026.

8. Respondent discharges wastewater from its manufacturing facility into the District’s POTW, and is therefore an “Industrial User” as defined at 40 C.F.R. § 403.3(h).

9. Respondent is subject to the General Pretreatment Regulations at 40 C.F.R. Part 403.

10. Respondent is a metal finisher that coats mild steel, stainless steel, and aluminum components for aircraft and other commercial companies, and the military. Specific operations performed include zinc electroplating, cadmium electroplating, nickel electroless plating, chromate conversion coating, anodizing, phosphatizing, and passivating. Respondent began metal finishing operations at its manufacturing facility after August 31, 1982.

11. All of the specific operations listed in paragraph 10, above, are regulated processes under the federal Categorical Standards as defined by the General Pretreatment Regulations at 40 C.F.R. Part 403.6. Therefore, Respondent is subject to 40 C.F.R. Part 433 (Metal Finishing Point Source Category), and more specifically, 40 C.F.R. § 433.17 (Pretreatment standards for new sources).

12. Respondent is subject to 40 C.F.R. § 403.12(e) which requires periodic reports on continued compliance to the Control Authority (MDNR).

13. 40 C.F.R. § 403.12(e) requires Respondent to sample for cadmium, copper, chromium, lead, nickel, silver, cyanide, zinc and total toxic organics.

14. On or around December 4-7, 2000 EPA performed an inspection of AERO and identified numerous effluent violations. Subsequent communication with the District indicated additional violations.

III. Findings of Violation

Count 1

15. The facts stated in paragraphs 5 through 14 above are incorporated herein by reference.

16. Respondent violated the 40 C.F.R. § 433.17 Metal Finishing regulations on at least the following occasions:

Date	Pollutant	Violation Type	Data Source	Discharge level, mg/l	Limit, mg/l
Dec 7, 1999	zinc	daily max	District/IU	10.6	2.61
Dec 21, 1999	zinc	daily max	IU	2.96	2.61
Dec 29, 1999	zinc	daily max	District/IU	5.4	2.61
Jan 3, 2000	cadmium	daily max	IU	0.657	0.11
	chromium	daily max	IU	5.44	2.77
	zinc	daily max	IU	4.39	2.61
Jan 4, 2000	cadmium	daily max.	District	0.604	0.11
	chromium	daily max.	District	5.22	2.77
	zinc	daily max.	District	4.08	2.61
Jan 20, 2000	cadmium	daily max.	IU	0.134	0.11
Jan 27, 2000	cadmium	daily max.	IU	0.181	0.11
January, 2000	cadmium	monthly avg.	District/IU	0.168	0.07
July, 2000	cadmium	monthly avg.	District/IU	0.091	0.07
Nov 7, 2000	zinc	daily max	District	4.29	2.61
November 2000	zinc	monthly avg.	District	4.29	1.48
Dec 8, 2000	cadmium	daily max	District/IU	0.231	0.11
December 2000	cadmium	monthly avg.	District/IU	0.108	0.07

Jan 24, 2001	cadmium	daily max	IU	0.139	0.11
Jan 26, 2001	cadmium	daily max	IU	0.193	0.11
Jan 30, 2001	cadmium	daily max	IU	0.117	0.11
Jan 31, 2001	cadmium	daily max	IU	0.213	0.11
January 2001	cadmium	monthly avg.	District/IU	0.155	0.07
Apr 3, 2001	cadmium	daily max	District/IU	0.20	0.11
Apr 17, 2001	cadmium	daily max	IU	0.736	0.11
Apr 18, 2001	cadmium	daily max	IU	0.233	0.11
Apr 19, 2001	cadmium	daily max	District/IU	0.171	0.11
April 2001	cadmium	monthly avg.	District/IU	0.2875	0.07

IV. Order for Compliance

17. Effluent Limitations

a. Samples for those pollutants listed below apply to the following locations:

i. Outfall 001:

b. The Respondent is authorized to discharge process wastewater from the above outfall to the Northeast Public Sewer District but such discharges shall not exceed the following effluent limitations:

Pollutant	Daily Maximum mg/l	Monthly Average mg/l
Cadmium	0.11	0.07
Chromium	2.77	1.71
Copper	3.38	2.07
Lead	0.69	0.43
Nickel	3.98	2.38
Silver	0.43	0.24
Zinc	2.61	1.48
Cyanide	1.20	0.65
TTO	2.13	

c. In lieu of monitoring TTO, the Respondent may make the following certification statement as provided by 40 C.F.R. § 433.12(a):

“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing of the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plan submitted to the control authority.”

In conjunction with the above certification Respondent must submit a solvent management plan to MDNR that specifies the total organic compounds used, the method of disposal used instead of dumping, and procedures for ensuring that toxic organics do not routinely spill or leak into the wastewater as required by 40 C.F.R. § 433.12(b).

18. Monitoring Requirements

a. Respondent shall monitor Outfall 001 for the following parameters at the indicated frequency:

Pollutant	Frequency	Method
Flow (gpd)	Continuous	Meter
Cyanide (mg/l)	Once per 6 months	grab
Cadmium (mg/l)	Once per week	24-hr Composite
Chromium (mg/l)	Once per 6 months	24-hr Composite
Copper (mg/l)	Once per 6 months	24-hr Composite
Lead (mg/l)	Once per 6 months	24-hr Composite
Nickel (mg/l)	Once per 6 months	24-hr Composite
Silver (mg/l)	Once per 6 months	24-hr Composite
Zinc (mg/l)	Once per week	24-hr Composite

b. All handling and preservation of collected samples and laboratory analyses of samples shall be performed in accordance with 40 C.F.R. Part 136 and amendments thereto unless specified otherwise in monitoring conditions of this order.

c. The 24-hour composite sample shall be taken only during the time that the facility is discharging process water or treated wastewater to the District’s sewer system.

d. AERO shall offer the District a split sample for all sampling events required by this Order.

19. Reporting Requirements

a. Monitoring results obtained shall be summarized and reported every six months. The reports are to be postmarked no later than 20 days following the end of the six-month reporting period. The year is divided into two reporting periods, the first if from January 1 to June 30, the second is from July 1 through December 31. The report shall indicate the nature and concentration of all pollutants in the effluent for which sampling and analyses were performed during each calendar month of the respective reporting period. The report shall include a presentation of the measured maximum and average daily flows. If Respondent uses rinse water flow in an amount above 6 gallons per minute, it shall submit a written notification and justification as part of the report.

b. If the results of the Respondent's wastewater analysis indicate that a violation of this order has occurred, the Respondent shall:

1. Inform MDNR of the violation within 24 hours; and

2. Repeat the sampling and pollutant analysis and submit, in writing, the results of this second analysis within 30 days of the first violation.

c. All reports required by this order for compliance shall be submitted to MDNR and EPA at the following addresses:

Rick Kuntz, P.E.
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102
Phone: 573-751-6996

Paul T. Marshall, P.E.
U.S. EPA
901 N. 5th Street
Kansas City, Kansas 66101
Phone: 913-551-7419

20. Respondent shall comply with the Standard Conditions contained in Attachment 1 to this Order.

V. General Provisions

21. The provisions of this Order are severable. If any provision of this Order is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

22. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et. seq., all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d), or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

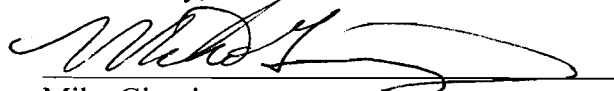
23. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. Environmental Protection Agency. Such notice shall not be given until all of the requirements of this Order have been met.

This Order shall become effective upon the date of receipt by Respondent.

Issued this 25th day of September, 2001.



U. Gale Hutton, Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101



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U.S. Environmental Protection Agency
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CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Order for Compliance Regional Hearing Clerk, United States Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the signed original Findings of Violation and Order for Compliance to:

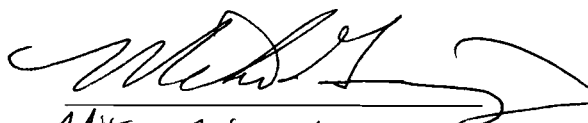
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SEP 27 2001

Date


Mike Gieryk